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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,460	03/22/2004	Harriet Kirkpatrick	047144/275346	2926
826	7590	02/08/2007		
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			EXAMINER PALO, FRANCIS T	
			ART UNIT	PAPER NUMBER
			3644	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/08/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/807,460

Applicant(s)

KIRKPATRICK, HARRIET

Examiner

Francis T. Palo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) 6-14, 16, 18, 22-39, 44 and 45 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 15, 17, 19-21 and 40-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 November 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment and Remarks***

Applicant's arguments with respect to claims 1-5, 9,15,17 and 19-21 have been considered but are moot in view of the new ground(s) of rejection necessitated by the amendment filed 11/6/06.

**Claims 9, 44 and 45** are withdrawn from further consideration as being drawn to a non-elected species, as it recites "a fourth panel".

### ***Specification***

The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Objections***

**Claim-21** is objected to because of the following informalities:

"a second fastener" on line-8 should be changed to;

--a second temporary fastener--.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-5, 17, 19-21 and 40-43** are rejected under 35 U.S.C. 102(b),  
as being anticipated by **Chapin** (US 6,119,289) 2000.

Regarding **claims 1 and 2**:

According to applicant's figures 13-15 and description filed 11/6/06, it is submitted that **Chapin '289** depicts in figure-1 structure readable on the instant invention; specifically, Chapin depicts two female (16 and 18) and one male (20) panels, with the headboard (16) readable on the first (female) panel as claimed, the rail (20) readable on the second (male) panel as claimed and the footboard (18) readable on the third (female) panel as claimed.

Chapin also depicts structure in figures 1-3 readable on a first and a second temporary fastener, which is capable of the panel "adjacent" limitations, as claimed.

Regarding **claims 3 and 20**:

The discussion above regarding claim-1 is relied upon.

The first (16), second (20) and third (18) panels of Chapin are depicted as planar, and thus stackable, as claimed.

**Regarding claims 4 and 5:**

The discussion above regarding claim-1 is relied upon.

In accordance with the discussions above, the first fastener of Chapin would be represented by the male connector depicted in figure-3 located on the first lateral side of the second panel (20) which, is depicted in figure-1 as being slideably engaged at the adjacent second lateral side of the first panel (16), as claimed; the second fastener of Chapin would be represented by the male connector depicted in figure-3 located on the second lateral side of the second panel (20) which, is depicted in figure-1 as being slideably engaged at the adjacent first lateral side of the third panel (18), as claimed.

**Regarding claim-17:**

The discussion above regarding claim-1 is relied upon.

The apparatus of Chapin is capable of the intended use recited in the instant claim.

**Regarding claim-19:**

The discussion above regarding claim-1 is relied upon.

The apparatus of Chapin is capable of the dimensions as claimed.

**Regarding independent claim-21:**

The discussion above regarding claim-1 is relied upon for the prior art rejection of the instant claim, and the apparatus of Chapin is capable of the intended use recited in the instant claim.

Regarding **new claims 40-43**:

The discussion above regarding claim-1 is relied upon.

The discussions above regarding claims 1, 2, 4 and 5 are relied upon for the rejections of the instant claims.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1 and 15** are rejected under 35 U.S.C. 103(a),  
as being unpatentable over **Bunker** (US 1,828,642) 1929,  
in view of **Chapin** (US 6,119,289) 2000.

Regarding **claims 1 and 15**:

Bunker '642 depicts a four paneled planar screen in figure-1 which is depicted as a four sided enclosure as in figure-2 and with one panel removed as a three sided enclosure depicted in figure-4; it is submitted that the depiction in figure-4 is capable of the construction as depicted in figures 13-15 of the instant invention and as claimed in the instant claim.

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It is further submitted that it would have been obvious to one of ordinary skill in the art at the time the invention was made, to have substituted the fasteners of Chapin for the fasteners of Bunker, as further such modification is merely an alternate equivalent fastening means performing the same intended function; specifically, effecting temporary panel attachment.

Finally, Bunker depicts panels having lower ends (anchors) capable of the intended use recited in the instant claim.

In the alternative, it would have been obvious to modify Chapin to include the feet of Bunker as structures such as taught by Chapin are known to utilize that design.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed,

and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Francis T. Palo whose telephone number is 571-272-6907. The examiner can normally be reached on M-Tu.,Th.-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Francis T. Palo*

Francis T. Palo  
Primary Examiner  
Art Unit 3644